



City Council Minutes
The City of Cortland
December 15, 2009

Council Meeting #25
December 15, 2009
Regular Session
City Hall
7:00 PM

Present: Alderman VanGorder, Benedict, Dye, Tobin, Quail, Feiszli and Michales

Staff Present: Director of Administration and Finance Bryan Gazda,
Corporation Counsel Lawrence Knickerbocker and City Clerk
John O. Reagan

Mayor Gallagher calls the twenty-fifth Common Council meeting of the year to order at 7:00 PM.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Regina Carpenter Ferro is a registered nurse and a local resident and she spoke in support of the Cortland Youth Bureau and all of their park activities and recreation programs enjoyed by she and her siblings growing up. She noted that the programs were year round. She is now a Youth Bureau volunteer and she noted that it played an important role in the lives of community children including her own. She explained the many benefits of Youth Bureau Programs and she thanked those of the Youth Bureau for all of their efforts and programs.

Anne Doyle came to say thank you to Mayor Gallagher and the outgoing Aldermen, especially Clay Benedict. She appreciated their hard work and she noted that it is a hard job. She also thanked Sharon Stevens, noting that this was her last night. She also came to talk about the blue bags. She asked if this was a new company and who had negotiated the contract. She asked if they knew the bags were going to change and if the bags were seen before the change was agreed to. She asked why the public was not told about the change and that the bags were unsatisfactory. She asked if they were going to be changed or was the public going to have to just deal with this.

Dick Tupper of Cortlandville came to speak in regards to the project that he and the Mayor had been working on for the past three (3) years. He noted that they made three (3) requests for inter-municipal grants and they were all turned down and then they were successful in getting a USDA grant and a low interest loan so that they could finally run water to Polkville. He noted that the town of Cortlandville's public water is on Oak Crest and for Cortlandville to continue that water line meant going under the railroad, under a road and under the river. He stated that Cortland already had a waterline that was across the river. He noted that it was a considerable savings for Cortlandville by not having to go through the drilling process and dealing with the railroad and the road. It was used as an argument with the USDA, plus the fact that the City had lost water revenue due to the closing of Buckbee Mears, this was an opportunity for Cortlandville to help the City with their water revenue. It wasn't as much as what Buckbee Mears was using, but it was a good inter-municipal agreement. This agreement is building upon Cortlandville's relationship with the City. He also noted that Cortlandville had decided not to get into the recreation business and felt that rather than establishing their own recreation department, it made more sense to contract with the Cortland Youth Bureau and it has been a very successful contract for Cortlandville. It was much cheaper to go with somebody that already has the staff and infrastructure, so the City Youth Bureau is handling all of Cortlandville's athletic fields. He feels that is a good thing for Cortland and Cortlandville and he felt that the water agreement will also be a good thing. He noted that this is a slow process. He thanked Mayor Gallagher for his help and he looked forward to working with Mayor-elect Feiszli in the future.

Mayor Gallagher thanked him.

Minutes of December 1, 2009

RESOLUTION #137 OF 2009 – Approve the minutes of December 1, 2009 as amended.

By: Alderman Michales
Seconded: Alderman Quail

Approved: Ayes – 7
Nays – 0

Minutes of December 8, 2009

RESOLUTION #138 OF 2009 – Approve the minutes of December 8, 2009.

By: Alderman Dye
Seconded: Alderman VanGorder

Approved: Ayes – 7

Nays – 0

Bills were reviewed and received.

Mayor's Report

He met with PBA to discuss ongoing contract negotiations. He attended a Loan Committee meeting regarding Cortland Plastics. He attended the Hope Lake Lodge grand opening at Greek Peak. He noted it was spectacular and was going to be a great thing for our community. He met with a representative of the U.S. Department of Agriculture regarding prevention and control methods for crows. He noted that they will come in for a year for about six thousand (\$6,000) and they would go to the pockets where all of the crows are and they have numerous devices to break the crows flocks up. After that, that equipment will be available for the City to purchase. They have lasers, starter guns and some other mechanical things and they will train the staff. Mayor Gallagher is waiting for more information to be sent to him. He met with representatives of Cortland Regional Medical Center to discuss water billing.

Mayor Gallagher informed the Common Council that there was a waterline break in City Hall this afternoon. It's being worked on for a temporary fix, so Court can have their session tomorrow and then it will be taken care of permanently.

He wished everyone a Merry Christmas and a Happy New Year.

Ward 1 – Alderman VanGorder

Her Ward has been quiet. She thanked all of her constituents for their support over the past four (4) years and she thanked her fellow Councilor's, Mayor Gallagher, Director of Administration and Finance Bryan Gazda and Corporation Counsel Lawrence Knickerbocker and the department heads. She noted that it has been a pleasure working with everyone and it's been a great experience. She thanked everyone.

Ward 2 – Alderman Benedict

He has received a lot of thanks on keeping the crossing guards. He was sure they wanted that passed on to the rest of the Council. He noted that it was not easy to keep programs and personnel and try to keep the taxes low. He noted that it looked like next year will not be any easier. He feels that this group has done some of the ground work for more savings in the next couple of years.

He received some calls and e-mails on the blue bags. He thanked Mayor Gallagher and Director of Administration and Finance Gazda for putting this on the agenda tonight.

He noted that this is also his last regular meeting. He wanted to thank the entire group for their bi-partisan support of things that are near and dear to his constituents. He has a great deal of respect for all of you. He noted that the Council passed the nuisance party ordinance and the rental permit program and they are on their way to getting approvals for the berm.

He wished those that are staying on the Council or just coming on the Council the best of luck. He also wished those that are leaving the best of fun and enjoyment at whatever they do. He thanked the constituents for their support. He went on to thank the City employees for their hard work and dedication over the many years that they worked here. He thanked Mayor Gallagher for his hard work and guidance, as well. He hoped that Mayor Gallagher enjoyed his time off before he went on to his next project or service.

Ward 3 – Alderman Dye

He received a couple of complaints about the blue bags. He also had a couple of e-mails and talks with residents regarding the crossing guards and they are happy that they are still here. He noted that a couple of residents in his Ward are crossing guards and they are extremely happy.

He noted that a couple of street lights are out and he has called NYMO on, but they have not yet been taken care of. He also thanked Mayor Gallagher for his support and wished him good luck.

Ward 4 – Alderman Tobin

He thanked Mayor Gallagher and the Council members who were leaving. He noted that being an alderman was a thankless position as they received many complaints, but having been in this seat, he wanted to thank them. He noted that Alderman Quail and he had met with Dan Hartnett. They are starting to have some discussions regarding what the City can do with the County and they will keep everyone up to date as things develop. He is also starting to investigate some consolidation ideas that are already being done or being attempted in some other municipalities. He doesn't have anything to report on yet, but hopefully will have some things in January and February as we start to move forward with the new administration and Council. He thanked Mr. Tupper of Cortlandville for attending tonight's meeting. He hoped to have many more discussions in addition to this one about the water, where the Town and City can talk about ways to help each other out.

He stated that the Housing Committee would be having a meeting at 6:30 PM at Pt. Watson Commons on Thursday, December 17, 2009. The goal at that point is to discuss inspection fees. He invited Chief Glover to attend if he was available and he also asked to speak with him prior to that meeting.

He noted that there had been many discussions back and forth regarding the budget. He thanked Director of Administration and Finance Gazda for making changes and trying to keep things up to date as the Council progressed. He asked that the budget be placed on tonight's agenda, to give the Council one more chance to discuss or potentially make amendments to the budget. He noted that the Council has gotten it down quite a bit, but as he looks at it, he is not comfortable with the percentage of increase. He would like to get another percentage and a half out of it, if they could. He noted that they've had a lot of difficult discussions, made some hard decisions and to sit here and say there is a potential job loss for people. He noted it wasn't any easy job for the Council, but the more he spoke with his constituents, he felt that the City was still above where it needed to be. He asked that this discussion be added to the agenda before the Council voted on the General Fund Budget.

Ward 5 – Alderman Quail

He thanked Mayor Gallagher for his six (6) years of service. He went on to thank all of the Aldermen that were leaving and noted that it had been a pleasure working with everyone on the Council. He looked forward to their input going forward.

He noted that in his Ward there were a couple of locations with garbage and there was the possibility that an individual was running a business out of their house on Sunnyfield. It appeared to be an auto repair place. He noted that he had some trees down in his back yard and branches down in the Ward after last week's storm. He has received calls regarding the garbage bags.

Ward 6 – Alderman Feiszli

She thanked Mayor Gallagher for the past six (6) years. She thanked him for the time he had spent with her during the transition and she looks forward to his mentoring in the future. She noted that she had not realized that this was Sharon Stevens last night doing the Channel 2 taping and noted it was a thankless job, but she thanked her for her support and for being present. She noted that she was also going to miss the departing Aldermen and is looking forward to the new year and it's challenges. She's very optimistic about it. She thanked them.

Ward 8 – Alderman Michales

He has received two (2) calls regarding the blue bags and an issue about a blue bin, which he is trying to resolve. He noted that the bin issue is with a single individual who doesn't accumulate much and only puts the bin out every six weeks or so.

He has also received a concern about the First Night celebration. The possibility was suggested that they could have it without the fireworks, but he is not sure if anything else has been developed regarding this.

Mayor Gallagher stated that there was nothing going on. He had spoken with the Downtown Partnership Director who had done some investigating and there just wasn't the money. Mayor Gallagher noted that it cost the City about three thousand dollars (\$3,000) for overtime.

Alderman Michales stated that it had been an honor and a privilege to work with and serve under Mayor Gallagher's leadership. He noted that the Mayor had set aside party differences for the betterment of the City and he thanked him for that. He noted that the Mayor had given one hundred percent (100%) devotion to the position, taking very little time off. He felt the Mayor and the Council had accomplished a lot and he wished he and his family best wishes. He went on to state that it had been a pleasure to work with Mr. Knickerbocker as Corporation Counsel. He noted his professionalism and his knowledge as well as his wit would be greatly missed. He thanked Aldermen VanGorder, Benedict and Hamilton for being part of the team and he wished them the best.

Item No. 1A – Discussion regarding the 2010 General Fund Budget

Alderman Quail wanted to understand if there were any opportunities to reduce the budget. He felt that eight and a half percent (8 ½%) was still quite a bit of money and he noted that there might not be a lot of palatable opportunities out there, but he felt that they should discuss this. He noted that the largest department was the Police Department and that department had not been touched. He noted he was not saying that they were not needed, but they had to look at the costs. He noted that over the past five (5) years the costs had gone up over a million dollars in payroll and fringes. He noted that his constituents had told him that they wanted to lower taxes.

Alderman Benedict stated that his constituents were quite clear that they wanted to continue with the level of support that they had now from the Police Department and they do not want to cut back on the patrols on the Hill and in the neighborhoods in the Ward and that they are willing to pay for protection.

Alderman Dye wanted to ask Chief Catalano a couple of questions. A person on Adkins Street had asked him about the three (3) officers who didn't go to the academy until March, they wanted to know if they were police officers. Chief Catalano noted that they were sworn police officers. Alderman Dye asked if they were allowed to work alone. Chief Catalano stated that they did not work alone. Alderman Dye asked if someone from the Department had to go with them until they were done with the academy. Chief Catalano noted that they wouldn't be done with the academy until probably August. Alderman Dye noted that the City had to go from now until August with those three (3) people working with other

people. Chief Catalano noted it would be from now until March until they went to the academy and they would work with someone assisting with the staffing on that shift. When they attended the academy, they were assigned to the academy and did not work at the Police Department. Alderman Dye asked if they were on a year's probation once they returned from the academy before they could work on their own. Chief Catalano noted that probation depended upon when they received their certification as a police officer and then there was a probationary period after that. Their in-service training after the academy varies depending upon how they catch on. By working now, they catch on much, much faster in a shorter period.

Alderman Feiszli asked if it was typical of the City to hire new officers for such a long period before they go to the academy. Chief Catalano noted that was correct, because there was a hole in the shift and they tried to avoid that. Alderman Feiszli asked if our insurance covered them fully. Chief Catalano stated absolutely, as they were employed as police officers, but just not certified by New York State. He noted that they were sworn in as police officers.

Alderman Tobin noted that he had sent some e-mails to Chief Catalano and he had responded regarding some concerns about potential staffing losses. He asked where he was at with staffing compared to 2008 staffing. Chief Catalano stated that it was the same number of positions now as in 2008. He also noted that they had actually lost a couple of positions. He noted that they had had forty-five (45) positions when the department had been working the magnetometer. The State had been reimbursing the department for those positions, but now they have taken over with their own officers, so now the department actually had forty-three (43) positions. Alderman Tobin asked him if they had positions that were not filled. Chief Catalano noted that it wasn't a case that they were not filled, it was just a waiting period until someone retiring or transferring. Alderman Tobin asked when the three (3) positions opened up. Chief Catalano noted that they had two (2) positions, a sergeant and a detective as well as Chief Nichols retiring, when they retired that's when the positions opened up. One left in May and two left in August of 2009. Alderman Tobin noted that he had potentially put it to the Councilor's to eliminate one (1) of the officers that would be going to the academy in March. Chief Catalano took exception with the statement that the Police Department had not been touched. He noted that he had not been able to buy any police cars and he had overtime cut from the budget after he had given the amount he thought would be needed. He noted that Director of Administration and Finance Gazda had reminded everyone that they were constantly under-funded. He also had a Dictaphone cut. He asked if any other department had been cut and if they had layoffs. Various Councilors stated the Youth Bureau had been cut and the DPW had cuts. Chris Bistocchi noted that there were actually eight (8) retirements as of the first of the year, so he would be down three (3) positions. Another department head noted they had two (2) retirements coming next year. Alderman VanGorder reminded them they also had a hiring freeze. Alderman Tobin noted that a hiring freeze just meant the Council had to vote on filling each

position, not that there was no opportunity. Alderman Benedict noted that they had to budget the money now for the three (3) new hires, if they didn't do it now, there could be a problem replacing people that retire. Alderman Tobin noted that if the person was retiring next year, then that position had been funded. Alderman Tobin noted that if the individual retired, then the City would have that extra money in the budget.

Alderman Quail asked Chief Catalano about the forty-three (43) people in 2008. He asked Chief Catalano if he was now saying that the department had forty-five (45). Chief Catalano stated that they still at forty-three (43), but prior to that they had forty-five (45) because two (2) officers were assigned to the magnetometer. Alderman Quail noted that he showed forty-one (41) in 2004. Chief Catalano noted that may have been the number of positions filled. Alderman Quail noted that there were forty-three (43) in 2006 and now the Chief says there's forty-five (45). Chief Catalano stated that he did not believe that those were added positions. He noted that they were at forty-five (45). Alderman Quail noted that Director of Administration and Finance Damiano would have accounted for that by placing them totally in the budget and the City would've gotten a reimbursement from the State.

RESOLUTION #139 OF 2009 – Consideration of a Resolution to eliminate one (1) Patrol Officer position from the Police Department in the 2010 General Fund Budget.

By: Alderman Tobin
Seconded: Alderman Quail

Roll Call Vote: Alderman VanGorder – Nay
Alderman Benedict – Nay
Alderman Dye – Nay
Alderman Tobin – Aye
Alderman Quail – Aye
Alderman Feiszli – Aye
Alderman Michales – Nay

Defeated: Ayes – 3
Nays – 4

Item No. 1B – Discussion regarding the Police Department Administrative Aide Position

Mayor Gallagher asked if anyone had asked Chief Catalano about what the Administrative Aide did and what her job responsibilities were. Alderman Tobin stated that a couple of e-mails had been traded and had received information about the accreditation process. Mayor Gallagher noted that was only one of the things she did. Alderman Tobin noted that her other job responsibilities had been

discussed as well. Mayor Gallagher asked him what the ramifications would be if that position was eliminated. Alderman Tobin noted that there would be additional work in the Police Department and he had asked himself how much of that work would be critical. He noted that it wouldn't affect Police Department emergency response. He noted that if some administrative paperwork began to get backlogged, he found that acceptable. Alderman Feiszli noted that this had been brought up before, but she didn't know much about her responsibilities, but she felt more comfortable perhaps making it part-time rather than eliminating it. Alderman Michales asked Chief Catalano if the position has more duties. Chief Catalano stated that the Aide was split between several duties and there was also the possibility that she might be shared with some other departments if she was allowed to. He noted that she was very versatile. Alderman Michales stated that the City had some tough times ahead of it and by having a vigilant police force that stays on top of crime is good and he can't foresee cutting any positions at this point. Alderman Quail noted that the Police Department was a huge chunk of the budget. Alderman Michales reminded him that in many parts of the United States residents didn't dare walk outside after dark and residents have that privilege here. Alderman Dye noted that twenty-seven miles north of the City was a prime example. Alderman Quail noted that he heard that all of the time and he lived in the South end and he would say it was South Salina Street now. Alderman Dye noted that there were pockets here and there, but the Council couldn't take the chance of letting it get that bad. Alderman Quail noted that the population had not gone up in forty years. Mayor Gallagher reminded him that wasn't quite true, the College population had gone up by about three thousand (3,000) in the past eight (8) years. Alderman Quail read off the census figures from 1950 to present indicating not much change. He also noted that the Police Department budget had significant increases over the past five (5) years. Alderman VanGorder stated that a lot of that was the union costs and increases in health insurance and other benefits as well as wages. Alderman Quail understood that, but felt that something still had to be done and costs had to go down. Alderman VanGorder agreed that eight and a half percent (8 1/2%) was hired than the Council wanted it to be. Alderman Dye noted that if the Council could get the State to reduce the amount they were requesting be contributed to the Retirement Fund, the increase wouldn't be that high, it would be more in the neighborhood of three percent (3 %). He noted that some of the costs that have increased the 2010 Budget are not costs the Council has the ability to control. He noted that they didn't have the ability to control the amount for the Retirement Fund. Alderman Quail noted that they could control the people that were going to retire. He noted that it was cold, but people drove benefits.

RESOLUTION #140 OF 2009 - Consideration of a Resolution to eliminate the Police Department Administrative Aide Position in the 2010 General Fund Budget.

By: Alderman Tobin

Seconded: Alderman Quail

Roll Call Vote: Alderman VanGorder - Nay
Alderman Benedict –Nay
Alderman Dye – Nay
Alderman Tobin – Aye
Alderman Quail – Aye
Alderman Feiszli – Nay
Alderman Michales – Nay

Defeated: Ayes – 2
Nays – 5

RESOLUTION #141 OF 2009 – Consideration of a Resolution to adopt the 2010 General Fund Budget in the amount of \$17,741,735.79.

By: Alderman Benedict
Seconded: Alderman Dye

Approved: Ayes – 5
Nays – 2 (Tobin & Quail)

RESOLUTION #142 OF 2009 – Consideration of a Resolution to adopt the 2010 Sewer Fund Budget in the amount of \$3,593,075.32.

By: Alderman Benedict
Seconded: Alderman Michales

Approved: Ayes – 7
Nays – 0

RESOLUTION #143 OF 2009 – Consideration of a Resolution to adopt the 2010 Water Fund Budget in the amount of \$1,835,916.61.

By: Alderman Dye
Seconded: Alderman Benedict

Approved: Ayes – 7
Nays – 0

RESOLUTION #144 OF 2009 – Consideration of a Resolution to enter into agreement with Cortlandville for the Water Purchase Contract (Polkville)(with Common Council's requested changes).

Alderman Tobin noted that his biggest concern was the length of the contract which was thirty-eight (38) years at a rate of one dollar and seventy cents per unit

(\$1.70) which was the new commercial rate. He noted that the residents were paying two dollars and fifteen cents (\$2.15). John Folmer, Cortlandville Town Attorney, was present. He explained that thirty-eight (38) years was the term of a loan which was part of the stimulus grant package. The contract provides for an adjustment on an annual basis if it becomes necessary and also provides for a modification by mutual agreement. The thirty-eight (38) years is based upon the length of the loan. Alderman Tobin stated that his concern was that residents in Polkville were going to be getting water at a lower rate than City residents. Attorney Folmer noted that this was a commercial transaction. Mayor Gallagher noted that was not correct that Polkville would be paying less. Attorney Folmer noted that the rate of one dollar and seventy cents (\$1.70) was the rate the City would be charging Cortlandville and the rate that Cortlandville would be charging their residents would be on their water rate schedule. Alderman Tobin asked him theoretically what would the charge be to a Polkville resident. Attorney Folmer felt that it was somewhere about one dollar and ninety cents (\$1.90). Alderman Tobin noted that it was less than what residents in the City were paying. Attorney Folmer noted that currently Cortlandville charged one dollar and ninety cents (\$1.90) to its single water district which was town wide.

Alderman Feiszli asked when the contract was worked on if Cortlandville had worked on this with the Water Department Head or with the Mayor. Attorney Folmer stated that he worked with Corporation Counsel Lawrence Knickerbocker. Corporation Counsel Knickerbocker worked with Chris Bistocchi. Alderman Feiszli asked if Chris Bistocchi had received a copy of this contract to review the water rates. Chris Bistocchi stated that he had received a copy on Monday, December 14, 2009. He stated that the City of Cortland calculates its units at seven hundred and fifty gallons (750) per unit and he did note that in the contract there could be a typo as it stated one thousand (1,000) gallons per unit. Attorney Folmer stated that it was his understanding that the rate was one dollar and seventy cents (\$1.70) per thousand (1,000) gallons. Mayor Gallagher stated that they were going by units and a unit was seven hundred fifty (750) gallons and that should be changed. Attorney Folmer stated that he was told it was one dollar and seventy cents (\$1.70) per one thousand (1,000) gallons.

Dick Tupper of Cortlandville noted that the reason Cortlandville was buying the water in bulk was because the City of Cortland would have a single meter reading and the town of Cortlandville would pay the City thirty (30) days later. He noted that Cortlandville would be responsible for collecting the bill from each customer hooked up and they'll do the meter readings and all of the maintenance and there would be no expenses to the City. The City would just be selling bulk water and that's the reason they are buying it at a lower rate. He went on to state that Cortlandville would probably be selling the water to their customers at a loss, because twenty cents (\$.20) wasn't going to cover the cost of the meter reading and maintenance. He noted that one dollar and seventy cents (\$1.70) was Cortland's commercial rate and so Cortlandville agreed to that in order to get water to Polkville. It was that important to them. Alderman Feiszli asked Chris Bistocchi

about the contract wording that stated that the City was responsible for all of the equipment including the installation of the metering. She asked him how much that was going to cost the City. Chris Bistocchi noted that he had just received the document yesterday morning and he hasn't had time to go through it all, but he guessed it would cost about ten to twelve thousand dollars (\$10,000 to \$12,000). He noted that they would have to furnish, install, operate, dig a meter pit and maintain at our own expense point of delivery metering equipment. Dick Tupper noted that this contract was a standard USDA contract and that's why John Folmer and Larry Knickerbocker couldn't change it very much. He noted that they had made an agreement that the pit and all of its construction is all in the grant. They are building the pit, they are putting the flow meters in and they're taking one hundred percent (100%) of the responsibility and the agreement that Cortlandville has with the City on this waterline states that the City's responsibility stops at the river. Underneath the river if it splits, both parties will be responsible, but once the water crosses the river, Cortlandville will be one hundred percent (100%) responsible. Mr. Tupper noted that in a metering pit, the City would have to have someone come out once a quarter to take a reading. He also noted that the City wouldn't have any loss from the pit if there was a leak at a residence. If there was, Cortlandville would take that loss. Alderman Feiszli suggested that they would move that one paragraph from seller to purchaser as far as the ten to twelve thousand dollars (\$10,000 to \$12,000) out of the contract. Mr. Tupper of Cortlandville stated that they were concerned that the USDA insisted that everything has to be done on their forms and in their language and Attorneys Folmer and Knickerbocker have been working on this. Mr. Tupper stated that he had noticed that in the contract as well even though it's not their intention. Alderman Benedict asked if the wording "could be paid for by grant" be added. Attorney Folmer noted that they had those words in all of their grants. Alderman Feiszli asked if the money was in the grant, why didn't the USDA want it in the contract. Attorney Folmer indicated that he had no idea why the USDA dictates the contract this way and he didn't have any problem changing that language because that will reflect what is actually going to happen. He didn't know if that would cause them difficulty with the USDA, but he will make that change.

Mayor Gallagher asked him if instead he would send the City a letter from the Town of Cortlandville explaining that Cortlandville was going to pay for everything going into the pits from the grant. He noted that if they changed the contract, the USDA was likely going to come back and Attorney Folmer would be monkeying around with this contract and this project would never get started. Attorney Folmer noted that he had one (1) other suggestion in addition to that and that is if they would have a problem if the City of Cortland and Cortlandville made that change in the contract and if they indicated that there would be a problem, we would write the letter and if there was no problem, they would make the change. He understood the Council's concern.

Alderman Feiszli asked why there was a rush for approval this evening if construction wasn't going to begin until the spring. Attorney Folmer stated that

there was a rush because the grant application has been pre-approved and they've been struggling with the USDA for months for what documentations were necessary to obtain the approval. They struck a deal with the government which indicates that they don't have to get signed easements at this point in time from the landowners because he was concerned about asking the landowners to grant a right of access to property until the City and Cortlandville had the grant. The USDA had told them originally that if they could tell them the contract was being negotiated, that would be sufficient, but they now say it is not sufficient and it would have to be executed in order to process and bring it to its final conclusion. If we delay the execution of this contract we will not be able to submit a complete package for grant approval and that will throw the schedule off for several months and may jeopardize the grant in total.

It was if they had a date that this contract needed to be approved by. Dick Tupper of Cortlandville stated that they had been working with the USDA on this paperwork for months and this was the last piece of the package that the USDA wanted and Cortlandville has about one hundred twenty thousand dollars (\$120,000) in engineering design and they are just paying for that. He noted that the USDA didn't give any money until the project was finished. He stated that they were constantly spending more and more money on this project and they're at the point where until they have final determination, they didn't actually have the money. So even though it's been predetermined that they've been approved, until the USDA gets the paperwork in order, they will not give a final approval and until a final approval is given, they don't dare go out and bid a two and a half million dollar project if they aren't going to get the grant or low interest money and they are not going to put the line through. They have to put the horse before the cart because the government insists that it be done that way. They have been working on this for quite some time and this is the last piece.

Alderman Tobin noted that the contract stated that if the defect occurs west of the river it is the responsibility of the seller, the City of Cortland and if it's underneath, then it's mutually shared. He wondered if that was a USDA requirement. Attorney Folmer stated that was the agreement that was reached between the Mayor and Mr. Tupper and whoever else the Council was dealing with. He was not part of that discussion. Mayor Gallagher stated that if that was not agreed upon, the City of Cortland would've been responsible for the whole thing and now they have someone to share it with. Attorney Folmer noted that the water would be delivered to Cortlandville on the east side of the river and whatever happens from that point is Cortlandville's problem. If something were to happen west of the river, that would be the City's concern and if it happens under the river, then they agreed that the City of Cortland and Cortlandville would share that equally because of the inability to look at the ground and to locate a definite point. That's where that came from. That was not dictated by the government, but the contract as originally submitted didn't deal with a situation where you were dealing with a situation where you were delivering the water. Alderman Tobin noted that the City had already born the expense of running the water to there. Mayor Gallagher

noted that was correct, they had been collecting from ETL. It was noted that the line was run in 1976 and the City bore that expense back then.

Alderman Tobin asked Chris Bistocchi how long he expected that line to last before it would need a fair amount of maintenance or an upgrade. Chris Bistocchi noted that an eight (8) inch main ran under the river and that it would probably last fifty (50) to seventy-five (75) years. It was noted that they had about forty (40) years to go and the contract was only for thirty-eight (38) years. Mayor Gallagher noted that the contract would be on-going as the City wasn't going to stop providing water in thirty-eight (38) years. Mr. Tupper noted that Cortlandville would continue buying water unless they drilled a well in Polkville. There was discussion regarding pipes to ETL. Chris Bistocchi stated that the City doesn't provide water to ETL, but for insurance purposes, the City provides pressurized water to hydrants and charges them a fee of thirty-six hundred (\$3,600) a year for a hydrant fee to keep that maintained and the City maintains the hydrants, as well. There is currently no metered water. Mayor Gallagher stated that this was to also promote economic development in Polkville. Many people had looked at the area for development and decided against it because there was no water. Mr. Tupper noted that it would cost about three hundred thousand dollar (\$300,000) to put in an industrial well, but if there was a public hydrant, the company would save the three hundred thousand (\$300,000) and the company's insurance rate would drop considerably. He noted that there is a hotel in Polkville, which the Health Department is concerned about their running their water off of a well. They are using that at leverage against the USDA as that is not a good situation. We cannot get a fast food restaurant or another hotel because there is a risk by not having public water. Mayor Gallagher also noted that looking down the road, Cortlandville is also talking about running the sewer down there and that would be another benefit to us. He thought they were looking at least sixteen thousand (\$16,000) in income a year.

Alderman Feiszli had another question regarding the quantity of sales per quarter in another part of the contract. Dick Tupper indicated that it meant that Cortlandville was a City customer buying bulk water and that if the City had increased rates because of upgrade a capitalization negotiation will have to be done on a yearly basis to adjust the rate per unit, but as a customer they just buy water. Corporation Counsel Knickerbocker explained that if we had to upgrade the system and bonded for the upgrade, we couldn't go to Cortlandville and ask them to pay a percentage of that bond. If that cost was reflected in the water rate, then they would pay that rate like everyone else. They would not be part of a bonding or a capitalization project for our water system. Dick Tupper explained how Cortlandville handled their capitalization, which was different than how Cortland handled it.

Alderman Feiszli asked Chris Bistocchi if he had any additional questions or concerns regarding this contract. Mr. Bistocchi stated that the units were wrong they were seven hundred fifty (750) gallons per unit, not one thousand (1,000)

gallons. More conversation ensued between Mr. Bistocchi, Mr. Folmer and Mr. Tupper regarding paragraph two (2) about the language. Alderman Feiszli asked about the calibration and the meter reading being done once every twelve (12) months. It was noted that there was a similar situation with the sewer lines. Alderman Tobin asked that this item be tabled. He was concerned with the lack of communication between the Water Department and the contract negotiators. Alderman Tobin also asked how the cross-training was going with Water Department employees and the DPW. He asked if the DPW people sometimes did the work of the Water Department employees. Chris Bistocchi indicated was happening. DPW workers had done water main work and Water Department employees had done the November leaf pick-up and they had received some snow plow training during the last storm. He noted that Youth Bureau people were also being cross-trained. Alderman Tobin noted that Water Department employees were no longer just Water Department employees. Dick Tupper noted that the City's Water Department obligation was to read the meter once a quarter and that took about ten (10) seconds. He stated the only obligation was to provide the water, read the meter and send Cortlandville the bill. Alderman Michales noted that it couldn't be stated any simpler than that. Alderman Dye noted that if there were any problems east of the river, then it was Cortlandville's responsibility and that was a good thing, because currently we go all the way to ETL.

By: Alderman Dye
Seconded: Alderman VanGorder

Approved: Ayes – 6
Nays – 1 (Tobin)

RESOLUTION #145 OF 2009 – Consideration of a Resolution to enter into agreement with the Cortland County SPCA for dog control services for 2010 in the amount of \$76,500.00.

Director of Administration and Finance Gazda noted that two (2) SPCA representatives, Don and Bill were present. He also noted that he had met with Donna Davies and the Chief and went over the emergency service portion of the contract that was in question. Corporation Counsel Knickerbocker went through it and they cleaned up the language and addressed the Council's concerns and the annual fee of seventy-six thousand five hundred dollars (\$76,500.00) stated here will include all services. Alderman Dye asked if the 24 hour emergency services portion of the contract would still be in effect but without the charge. Donna Davie indicated that the SPCA had never charged the City for emergency services therefore that portion of the contract had been taken out.

By: Alderman Dye
Seconded: Alderman Benedict

Approved: Ayes – 6

Nays – 0
Abstain – 1 (Michales)

RESOLUTION #146 OF 2009 – Appointment of the following as Commissioners of Deeds (term from January 1, 2010 through December 31, 2011).

Anthony Camilli, 90 Elm Street, Cortland, NY 13045 (DMV)
Jaqueline K. Henry, 10 Hickory Park Road, Cortland, NY 13045 (DMV)
Philomena Brady, 10 Westfield Park, Cortland, NY 13045 (DMV)
Wilma VanDee, 7 Taylor, Cortland, NY 13045 (DPW)

By: Alderman Quail
Seconded: Alderman VanGorder

Approved: Ayes – 7
Nays – 0

Item No. 8 – Presentation by Johnson Paper regarding blue bags.

No one was present from Johnson Paper and Chris Bistocchi was present to answer questions. Alderman Dye stated that there had been a comment made that the new bags would be equal to or better than the old ones. (audience laughter) Alderman Dye stated that he normally puts out two (2) bags for his garbage and this week he had to put out four (4). That amounted to forty-eight dollars (\$48) a month. For that amount he could hire a private hauler. Alderman Benedict stood up with an old bag and a new bag. He noted the bags were sealed differently, but beyond that, he had gone down to Copy Plus and had them fill both bags with peanuts and compared them. He showed how much was left over after trying to fill the new bag with the Styrofoam peanuts from the old bag. He noted that he had about one third (1/3) left over and he felt that was quite a lot and people were getting much less for their money. He asked that the City urge the company to correct the situation, make new bags.

Chris Bistocchi asked that they go back a year. He noted that the bag was supposed to hold fifty (50) pounds. He showed a 2007 bag with melted side seams and the bags split. He then noted that they went to a bottom seamed bag, of which Alderman Michales was one of the proponents of changing the bid, because so many bags were returned because of the side seams splitting. He was asked to find a stronger bag. He was asked to find a stronger bag. He noted that the new bags were the same dimensions before the bottom seal is in place, thirty-three (33) inches by forty (40) inches, but there are no longer side seams and they have a star seal on the bottom. He noted that he has a one (1) year supply of the new bags because they had to replace so many cases of the side seam bags. He noted that the new bags would hold more poundage than the old bags and not just Styrofoam peanuts. Alderman Benedict stated that the complaints he was receiving was that they used to be able to put three kitchen

garbage bags into a blue bag and now they can only put two and that was a concern. Chris Bistocchi noted that they would then have to change the specifications from the standard thirty-three (33") inches by forty (40") inches, which is what the current bag is prior to the bottom being sealed. He noted that it had been the standard size since 1991 or 1992 when the City began the blue bag system. Alderman Dye asked if they could buy the bags without the star seal. Chris Bistocchi stated that the City had been down that route once before and the used a gusset and the strength was not as good as the star seal. They then tried the side seal in 2007-2008 and that was a larger bag, but didn't hold as much because they ripped apart at the side seam. He then went with the star seal, which he was told was the strongest seal the company made. He now wanted to leave it up to the Council and noted that the City would have to use the bags that they already had on hand. Chris Bistocchi noted that residents couldn't put as much trash in the new bags and did have to buy additional bags. Alderman Benedict noted that perhaps the Council should drop the price of the bags back to the old price. Alderman Quail wanted to wait on that decision until they heard from Director of Administration and Finance Bryan Gazda to hear where the City was at in the overall program costs. Alderman Benedict felt that residents were putting out more bags, so the Council could charge less per bag. Alderman Quail wanted to hear if the City was running in a deficit on the program before making that decision. Alderman Dye noted that the City was going to be paying one hundred eighty dollars a ton (\$180) for garbage. Chris Bistocchi stated that the reason they increased the price per bag was that the company that produced the side seal bags, during the energy crisis a few years back, had begun to charge the City a fifteen dollar (\$15) delivery surcharge per case because these were a petroleum product. As usual, the cost of petroleum finally went down, but the cost of the blue bags never went down, so that's why the City had to raise the price by fifty cents (\$.50), so the City wouldn't take a loss on the program. Alderman Quail didn't want to run another deficit and he wanted to see what the facts were before he made a decision to drop the price of the bags.

Alderman Feiszli asked how long it would be before the current supply of bags ran out. Chris Bistocchi guessed that the City had purchased a year's supply and he anticipated they would run out in May 2010. It was asked how much it would cost to go to a larger bag. Chris Bistocchi was unsure. Alderman Feiszli asked him if he felt that the supplier would compensate seeing as there was this problem. Chris Bistocchi noted he would have to take that up with Johnson Paper and it was noted that we had already bought and paid for the bags and they met the specs put out in the bid. Alderman Quail asked why the bid was for a full year supply. Chris Bistocchi noted it was how they were able to get the best price. Alderman Quail noted that in the future, the City might want to look at a smaller volume, especially if they were making a change, so that they weren't stuck with a year's supply. Alderman Michales noted that they could look at the bags before making a purchase. Chris Bistocchi noted that one company stated that a minimum amount had to be purchased in order to get the bid price. He also noted that if the Council wanted to change from the star seal, then they could re-bid it, but they had to use

up what they had on hand. Anne Doyle noted that the gusset bags were fine. She could stuff them and they didn't break out. Chris Bistocchi noted that when they were first purchasing the bags, they had been able to purchase them directly from the manufacturer, but now that was not the case. They had to buy them from suppliers now. Another resident in the audience felt that she was going to be forced to look for a company that would take her garbage because it might be cheaper than using the current star seal blue bags. Alderman Feiszli noted that she also knew some people who were so anti-blue bag, that they did exactly that. The resident in the audience stated that she was happy with the blue bag system, but now didn't feel that she got her monies worth. Alderman Feiszli told her that the City was going to go back to the company to see if some compensation could be given for the loss of volume. The resident noted that the current bags are also very thin. The old bags were heavier and she could stuff them without worrying about ripping a hole in the bag, but not now.

Anne Doyle noted that the bags were six (6) inches less than the previous bags because of the seal, they could barely be tied and she thought it was ridiculous that the City couldn't get some type of compensation for this, especially when the bags are smaller. She used to put out two (2) and that's all she's going to do and maybe everyone should hire someone else, because this is ridiculous. Alderman Michales noted that if they were Glad Bags, the City would be paying a lot more for them. Anne Doyle noted that she didn't know if that was a true statement. She noted that she put the garbage into a black bag, then tied it up and then put it in the blue bag and she felt that was ridiculous.

Item No. 9 – Presentation of the City of Cortland's Flood Plain Damage Prevention Local Law.

Corporation Counsel Lawrence Knickerbocker noted that this had been presented earlier, but in Amy Bertini's communication with the DEC, they had suggested that the City rescind the City's existing local law. Therefore what he did was take the DEC approved new law and added to it a small section that indicated that Local Law No. 1 of 1987 in the City of Cortland was hereby and herein repealed. That would repeal the existing one and the language that was approved by the DEC continues on thereafter and that is what would be enacted. He noted that this is in final form and is now on the desk and it could be passed at the first meeting in January.

Corporation Counsel Knickerbocker pointed out that there were two (2) things the Council needed to be concerned about in passing this law. One is whether or not there needs to be a General Municipal Law referral and if the people in Albany believe it should be, he would take a different position than that. He believes that Dan Dineen of Cortland County Planning would hopefully be providing the City with a letter indicating that in his opinion this is not subject to GML referral.

Secondly, he noted that the Council would have to worry about a SEQR review of this. Apparently, what has come to him, the people in Albany believe that this is a Type One action and he disagrees with that. He believes that it is an Unlisted Action and that the SEQR review would be up to the Council's determination at their meeting in January. Mayor Gallagher asked Corporation Counsel Knickerbocker if Dan Dineen of Cortland County Planning was working on this. Corporation Counsel Knickerbocker stated that they asked him if he could potentially provide a letter to all of the municipalities in Cortland County indicating that it was his opinion that none of them need to be GML referred. Corporation Counsel Knickerbocker's opinion was that some of these localities and municipalities and other locations that have passed these already did not do GML referrals and he doubt that they did a Type One SEQR review either.

Mayor Gallagher noted that the other situation that might come up was that there had been some challenges by some neighborhoods that they were in the flood plain and that they didn't need to be in the flood plain. He noted that if at some point down the road, they get taken out of the flood plain, he asked if that might change this law. Corporation Counsel Knickerbocker was unsure. Alderman Feiszli stated that it was her understanding that if this local law was not adopted, the City was not eligible for any FEMA assistance, whatsoever. Alderman Benedict noted that they were not eligible for FDIC loans, as well. Mayor Gallagher noted that also included federal grants. Corporation Counsel Knickerbocker noted that this law was in its final form and would have no further revisions. Alderman Quail asked about page #9 where there was a blank left for the amount of the application fee. Alderman Dye noted that the Local Administrator may require a deposit of no more than \$500 to cover these additional costs. Corporation Counsel Knickerbocker noted that the reason he left that blank was because that fee had never been charged, but if the Council wanted to put something in there, that was up to them. Alderman Quail noted that this was so the applicant could be responsible for reimbursing the City of Cortland for any additional costs, but other than that the fee would be "zero". Corporation Counsel Knickerbocker noted that this Local Law needed to be adopted and that within this Local Law the previous Local Law would be rescinded and the new one would replace it. He noted that the Public Hearing should be set for the first Council meeting on January 5, 2010.

RESOLVED TO GO INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL AND CONTRACTUAL MATTERS.

By: Alderman Michales
Seconded: Alderman VanGorder

Approved: Ayes – 7
Nays – 0

RESOLVED TO COME OUT OF EXECUTIVE SESSION AND INTO THE REGULAR MEETING.

By: Alderman Tobin
Seconded: Alderman Dye

Approved: Ayes – 7
Nays – 0

RESOLUTION #147 OF 2009 – Consideration of a Resolution to reassign the Keyboard Specialist and the Account Clerk/Stenographer to the Department of Administration and Finance.

By: Alderman Quail
Seconded: Alderman Tobin

Approved: Ayes – 7
Nays – 0

Alderman Feiszli noted that she hated to bring in something at the eleventh hour, but she had copies of a resolution that she would like to have considered by the Council and, if approved, forwarded to Governor Patterson asking that he withdraw the supplemental draft generic environmental impact statement related to horizontal drilling of high volume hydraulic fracturing for the Marcellus Shale. She hated bringing something up so last minute like this, but the Governor might be signing something by December 31, 2009. She noted that the resolution presented was pretty much taken from Ithaca's resolution which was recently passed and modified to meet the needs of the City of Cortland. Basically, what is being asked is that they delay the passing of this bill. Alderman Dye noted that he thought the public comment was going on until sometime in February. Alderman Feiszli noted that the public commentary was going on until December 31, 2009. Alderman Dye thought it had been extended an extra sixty (60) days because of the outcry. Alderman Feiszli had gone on line and had spoken with some people to get further information, because she, too, had wanted to wait until January. She read the proposed resolution asking Governor Patterson to withdraw from the SEQR review of the draft generic environmental impact statement as the way that is written right now is inadequate to safeguard the public health and environment, etc. Alderman Feiszli noted that the resolution was quite lengthy, but basically asking for municipal control over permitting, siting and certain construction in operational parameters, etc. She noted that currently there were only nineteen (19) licensed DEC inspectors in New York State to oversee over thousands of wells. This resolution is asking that the City of Cortland have more control over what is going on right now. This resolution is asking the Governor to slow down his decision to push this legislation even though she realized it would bring increased revenues to the State. Alderman Benedict noted that it might cost us more than a few million dollars in revenue if there was a clean up that had to be

done. Alderman Feiszli noted that they had to protect the City's wells and ground water. Alderman Quail noted that he hadn't had a chance to look it over. There was a question regarding what was in the fracturing liquid. Alderman Feiszli noted that it was difficult for a waste water treatment plant to treat liquids released to them when they didn't know what chemicals those liquids contained. Alderman Dye noted that possibly the liquids couldn't be treated. Mayor Gallagher noted that there still seemed to be many questions. Alderman Feiszli again noted that this resolution was asking the Governor to delay his decision. Alderman Benedict asked if he could send Alderman Feiszli an e-mail with his reply and she then could send the Governor a letter and include all of the Aldermen's names that were in favor of that. The Council felt that was a good idea. Alderman Michales noted that there were spelling errors in his copy of the letter and that he had corrected those on his copy. Alderman Feiszli noted that since the Council wasn't going to do a resolution, she would put the request to the Governor in the form of a letter and then she would contact the Council members and give them a copy and she would send the letter to the Governor with the signatures of those Council members who wished to sign the letter.

Mayor Gallagher noted that today was a bittersweet day for him. He noted that he had enjoyed the past six years. He thanked the department heads, the staff, Director of Administration and Finance Gazda, the Council and all of the City's working partners. He noted that the bitter part of it was that he was leaving the City in the situation it was in today. He stated that he had never envisioned that it would come to this point, but he went on to say that he never envisioned four or five fires on Main Street, never envisioned that the City would have two floods in a row and all of the other things that have happened within the community. He went on to state that he has really enjoyed it. He came to City Hall with the idea that make it a full-time job and give it everything he had and he gave up six (6) years of his life and it has been fun. He has had an enjoyable time. He thanked the citizens of Cortland because they have been a huge support to him. He knows that not everyone is happy, but nobody's ever happy all of the time. He noted that he's said it before and he wished to say it again, people don't want to know how much you know, they want to know how much you care. He stated that he did care a lot about the community and he thanked everyone. The Council members thanked him in return.

Adjournment

By: Alderman Tobin
Seconded: Alderman Dye

Approved: Ayes – 7
Nays – 0

**I, JOHN O. REAGAN, CITY CLERK OF THE CITY OF CORTLAND, NEW YORK
DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A**

**REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF
CORTLAND, HELD ON THE 15th DAY OF DECEMBER 2009. I FURTHER
CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE
MAYOR IN THE TIME REQUIRED.**

JOHN O. REAGAN – CITY CLERK

MAYOR THOMAS GALLAGHER